

Message Text

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C O N F I D E N T I A L STATE 148462

LIMDIS - FOR AMB. LUCEY, DCM THOMPSON FROM NEGROPONTE

E.O. 11652: GDS

TAGS: EFIS

SUBJECT: TUNA SITUATION

REF: STATE 136900

1. SUMMARY: MEXICAN RESPONSE TO COSTA RICAN INVITATION
FOR TUNA CONSULTATIONS IN SAN JOSE ON JUNE 28, 29 AND 30
LEAVES NEGOTIATING SCENARIO BETWEEN NOW AND WHEN MEXICO
FORMALLY WITHDRAWS FROM IATTC ON NOVEMBER 8 SOMEWHAT
UNCERTAIN. THIS IS PARTICULARLY DISTURBING SINCE WE HAD
EARLIER INDICATIONS FROM MEXICAN FISHERIES DEPARTMENT IN
PERSON OF ARTURO DIAZ-ROJO THAT COSTA RICAN INITIATIVE,
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SUPPORTED BY U.S., MIGHT ALSO BE ACCEPTABLE TO MEXICO.
ACTUAL MEXICAN RESPONSE TO PROPOSAL, HOWEVER, APPEARS TO
HAVE BEEN DICTATED BY MEXICAN FOREIGN OFFICE AND YOUR
VIEWS ARE SOUGHT AS TO DESIRABILITY OF SEEKING APPEAL AT
HIGHEST LEVELS OF GOM TO APPARENT MEXICAN REJECTION OF
COSTA RICAN INVITATION. END SUMMARY.

2. JUNE 5, 6 AND 7 CONSULTATIONS IN WASHINGTON ON FISH-
ERIES MATTERS WITH GOM DELEGATION HEADED BY THEIR CHIEF
LAW OF THE SEA NEGOTIATOR JORGE CASTANEDA FAILED TO PRO-

DUCE AGREEMENT ON NEGOTIATING FRAMEWORK FOR PERIOD

BETWEEN NOW AND WHEN MEXICO'S PLANNED WITHDRAWAL FROM INTER-AMERICAN TROPICAL TUNA COMMISSION BECOMES EFFECTIVE THIS NOVEMBER 8. CASTANEDA, REVERSING EARLIER INDICATIONS (AND ADMITTEDLY THEY WERE ONLY TENTATIVE INDICATIONS) FROM MEXICAN FISHERIES DEPARTMENT OFFICIALS, OBJECTED TO OUR PROPOSED SCENARIO AND SHOWED ME COPY OF CABLE HE HAD ALREADY SENT TO COSTA RICANS REJECTING THEIR INVITATION.

3. CASTANEDA AND I WENT OVER THE PROBLEM AND OUR RESPECTIVE VIEWPOINTS FOR A TOTAL OF PERHAPS SIX OR SEVEN HOURS. I EXPLAINED THAT OUR MOTIVATIONS IN SUPPORTING COSTA RICAN INVITATION WAS BECAUSE WE SAW THE NEED TO PROCEED QUICKLY. WE WERE CONSULTING WITH OUR INDUSTRY ON JUNE 13 AND 14. THEREAFTER WE WOULD BE IN POSITION TO TABLE PROPOSAL FOR REGIONAL LICENSING SCHEME FOR CONSIDERATION OF LATIN COASTAL STATES. IF IT PROVED GENERALLY ACCEPTABLE, THEN WE COULD TABLE IT AT SPECIAL MEETING OF IATTC IN AUGUST FOR RATIFICATION AND IMPLEMENTATION. SINCE LICENSING WAS ONE OF KEY ELEMENTS OF CONCERN WHICH HAD PROMPTED MEXICO AND COSTA RICA TO CONFIDENTIAL

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ANNOUNCE INTENDED WITHDRAWAL FROM IATTC IN FIRST PLACE, IT HAD BEEN OUR VIEW THAT ESTABLISHMENT OF SUCH LICENSING SCHEME UNDER IATTC AUSPICE MIGHT BE SUFFICIENT INDUCEMENT TO MEXICO AND COSTA RICA TO RESCIND THEIR NOTICE OF INTENT TO WITHDRAW, AT LEAST FOR 1979 SEASON, IN ORDER TO PERMIT LONGER PROCESS OF OVERALL RENEGOTIATION OF SUCCESSOR ARRANGEMENTS TO IATTC IN TIME NECESSARY FOR SUCH A COMPLEX ENDEAVOR.

4. ANOTHER REASON FOR OUR FAVORING A NEGOTIATING SCENARIO IN CONTEXT OF EXISTING IATTC WAS SIMPLE FACT THAT ORGANIZATION ALREADY EXISTS AND THAT UNDER EXISTING CONVENTION LEGAL BASIS EXISTS FOR USG TO REGULATE U.S. TUNA FLEET WITHIN IATTC CONVENTION AREA. IN EFFECT, CONCESSIONS TO LATIN COASTAL STATES CONCERNED COULD PROVE RELATIVELY EASY TO IMPLEMENT WITHIN IATTC CONVENTION FRAMEWORK, OBVIATING NEED TO GO TO SENATE FOR ADVICE AND CONSENT TO NEW TREATY AND OVERHAULING EXISTING IMPLEMENTING LEGISLATION WHICH WOULD REQUIRE ACTION BY BOTH HOUSES OF CONGRESS. COROLLARY OF THIS IS THAT IF, AS RESULT OF MEXICAN AND COSTA RICAN WITHDRAWALS, IATTC EFFECTIVELY DISINTEGRATES, EVEN WITH BEST OF GOOD WILL IT SEEMS HIGHLY IMPROBABLE, IF NOT IMPOSSIBLE, THAT NEW TREATY MECHANISM COULD BE IN PLACE BY END OF THE YEAR. IF IT IS NOT, THERE WILL BE A VOID, WITH ATTENDANT RISKS OF CONFRONTATION. FOR EXAMPLE, IF MEXICO ACTUALLY WITHDRAWS ON NOVEMBER 8 AND NO MULTI-

LATERAL SUCCESSOR ARRANGEMENTS ARE IN PLACE, MEXICO WILL NO DOUBT TAKE VIEW THAT U.S. TUNA VESSELS CANNOT FISH IN MEXICAN ZONE WITHOUT LICENSES. THERE WILL BE NOTHING USG CAN DO TO COMPEL OUR FLEET TO BUY SUCH LICENSES AND SOME CAPTAINS WILL SIMPLY TAKE THEIR CHANCES KNOWING THAT FINES AND OTHER PENALTIES INCURRED AS A RESULT OF BEING SEIZED ARE REIMBURSED UNDER FISHERMEN'S PROTECTIVE ACT. IF SYSTEMATIC SEIZURES DO IN FACT OCCUR, THEN, UNDER EXISTING U.S. LEGISLATION MEXICAN
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TUNA EXPORTS TO U.S. WOULD BE SUSCEPTIBLE TO EMBARGO AND SO AN UNPLEASANT CHAIN REACTION COULD BE UNLEASHED WHOSE CONSEQUENCES WOULD AMONG OTHER THINGS MAKE IT POLITICALLY IMPOSSIBLE FOR US TO CONTINUE ALLOCATION OF SURPLUS FISH OFF OUR COASTS TO MEXICAN FLEET. AS YOU KNOW, WE NOW ALLOCATE SOMEWHERE IN THE NEIGHBORHOOD OF 75,000 TONS ANNUALLY TO MEXICO AND ARE PREPARED TO INCREASE THAT AMOUNT AS PART OF AN EFFORT TO BUILD A TRULY RECIPROCAL FISHING RELATIONSHIP. BUT WITH OUR SHRIMP FISHERY OFF MEXICO BEING PHASED OUT COMPLETELY BY THE END OF 1979, THERE MUST BE SOME QUID PRO QUO FROM MEXICO AND THAT LOGICALLY MUST COME IN THE AREA OF AN ACCOMMODATION ON TUNA.

5. DURING OUR TALKS CASTANEDA OBVIOUSLY SAW THINGS SOMEWHAT DIFFERENTLY. HIS OBJECTIONS TO THE NEGOTIATING STRUCTURE WE WERE ATTEMPTING TO CREATE WERE MOSTLY SUBSTANTIVE, ALTHOUGH I SUSPECT THERE WERE SOME PERSONAL CONSIDERATIONS AS WELL. HE HAD FOUR PRINCIPAL PROBLEMS WITH OUR PROPOSED APPROACH. FIRST, HE THOUGHT JUNE 28 WAS TOO SOON TO MEET. THE MEXICANS WEREN'T READY. WELL, I COULDN'T REALLY UNDERSTAND THIS SINCE ALL WE WERE TALKING ABOUT WERE INFORMAL CONSULTATIONS AND BESIDES THE PERSONAL PRESTIGE OF THE PRESIDENT OF COSTA RICA WAS NOW ENGAGED IN THE INVITATION. ALTHOUGH I DIDN'T SAY SO OPENLY, I COULDN'T HELP BUT SUSPECT THAT THE JUNE DATES WERE NOT ACCEPTABLE FOR THE SIMPLE REASON THAT THEY WEREN'T PERSONALLY CONVENIENT TO CASTANEDA. HE HAS A PRIOR ENGAGEMENT IN GENEVA. HIS NEXT OBJECTION WAS THAT ECUADOR AND PERU WERE NOT INVITED AND EVEN U.S. AT SEPTEMBER 1977 MEETING OF PLENIPOTENTIARIES ON IATTC RENEGOTIATION HAD SUPPORTED IDEA OF INVOLVING ECUADOR AND PERU. I AGREED THAT WE HAD INDEED MADE A POINT OF THIS AT THE 1977
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MEETING BUT CONSULTATIONS WITH ECUADOR IN JANUARY OF 1978 HAD LED US TO CONCLUDE THAT THESE INFORMAL CONSULTATIONS WOULD NOT BE PROPER FORUM IN WHICH TO ENGAGE ECUADOR AND PERU AND OUR VIEW AT THIS STAGE WAS THAT ECUADORIAN

AND PERUVIAN INVOLVEMENT WOULD MAKE ALL OF THIS A FAR LONGER AND TEDIOUS PROCESS. PERHAPS THE BEST WAY TO ATTRACT THEIR PARTICIPATION WAS TO IMPROVE THE EXISTING IATTC TO THE POINT WHERE THEY MIGHT EVENTUALLY WANT TO JOIN. IN ANY EVENT, WE SUSPECTED THAT TALKS INVOLVING ECUADOR AND PERU NOW WOULD NOT BE THE APPROACH MOST LIKELY TO LEAD TO A QUOTE QUICK FIX UNQUOTE BY THE END OF 1978.

6. CASTANEDA'S THIRD PROBLEM WAS THAT WE HAD BEEN SILENT ON THE QUESTION OF GUARANTEED COASTAL STATE ALLOCATIONS. THIS, ALONG WITH REGIONAL LICENSING, HE SAID, WAS THE KEY SUBSTANTIVE ISSUE SEPARATING US. I SAID THAT WE WOULD HAVE VIEWS TO OFFER ON THAT SUBJECT AS WELL ALTHOUGH THEY WEREN'T AS WELL ADVANCED AS OUR THINKING ON REGIONAL LICENSES. NONETHELESS, WE UNDERSTOOD MEXICO'S AND OTHER COASTAL STATES' OBJECTIONS TO FACT THAT OUR RECENT ANNUAL NEGOTIATIONS ON SPECIAL CLOSED SEASON ALLOCATIONS FOR COASTAL STATES HAD TAKEN ON A DISTASTEFUL BAZAAR-LIKE ATMOSPHERE. WE WERE PREPARED TO CONSIDER MORE PREDICTABLE APPROACHES INCLUDING SETTLING THE 1979 FIGURES AS EARLY AS AUGUST. WE DID NOT EVEN PRECLUDE ARRANGING A FIXED ALLOCATION SCHEME IF ONE COULD BE WORKED OUT IN TIME, BUT AGAIN IT WOULD BE A HECK OF A LOT EASIER UNDER THE UMBRELLA OF THE PRESENT TREATY. AS I SAID PRIVATELY TO CASTANEDA'S ASSISTANT ANDRES ROZENTAL AT ONE POINT QUOTE IT IS MUCH EASIER FOR US TO MAKE CONCESSIONS TOWARDS YOUR POSITION UNDER EXISTING IATTC CONVENTION. UNQUOTE.

7. CASTANEDA'S FINAL OBJECTION WAS THE IATTC ITSELF. HE SAID THEY COULD NOT ACCEPT A SCENARIO WHICH IMPLIED THE POSSIBILITY OF MEXICO'S STAYING IN THE IATTC (A CONFIDENTIAL

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PROSPECT WHICH, INCIDENTALLY, I UNDERSTAND GIVES THE MORE PRACTICAL MINDED MEXICAN FISHERIES MINISTRY MUCH LESS HEARTBURN). THIS CASTANEDA SAID WAS A MATTER OF PRINCIPLE. THE IATTC WAS NO LONGER CONSISTENT WITH THE EMERGING PRINCIPLES OF THE LAW OF THE SEA AND SO FORTH. AND COME WHAT MAY MEXICO WOULD LEAVE IT. I POINTED OUT THAT IATTC CONVENTION WAS IN FACT SILENT ON THESE JURIDICAL MATTERS. IT WAS A FLEXIBLE DOCUMENT AND REALLY NOT PREJUDICIAL TO ANYONE'S LEGAL POSITION. IT HAD PROVEN ITSELF SUFFICIENTLY FLEXIBLE TO ACCOMMODATE THE ESTABLISHMENT OF SPECIAL CLOSED SEASON QUOTAS FOR COASTAL STATES AND WE COULD NO DOUBT STRETCH THE DOCUMENT EVEN FURTHER. MOREOVER, IN FISHERIES RELATIONS AT LEAST, IT WAS NOT UNUSUAL FOR A STATE TO DENOUNCE A CONVENTION AS A TACTIC TO GAIN NEGOTIATING OBJECTIVES AND THEN, ONCE REASONABLY ACCOMMODATED, TO RESCIND ONE'S NOTICE OF WITHDRAWAL. WE HAVE JUST DONE THAT OURSELVES AFTER NEGOTIATING A VERY SATISFACTORY MODIFICATION TO OUR

PACIFIC SALMON CONVENTION WITH JAPAN.

8. CASTANEDA, UNCONVINCED, PROPOSED THE FOLLOWING ALTERNATIVE APPROACH TO OUR PROPOSAL. HE SUGGESTED THAT OUR

FIRST MEETING BE AN INFORMAL ONE IN EARLY AUGUST BETWEEN THE U.S. AND LATIN COASTAL STATES, INCLUDING PERU AND ECUADOR. AT THAT MEETING, WE WOULD DISCUSS PREPARATIONS FOR A MEETING OF PLENIPOTENTIARIES AS WELL AS THE SUBSTANCE OF A LICENSING SCHEME AND A SYSTEM OF GUARANTEED QUOTAS. HE AT FIRST PROPOSED LATE OCTOBER OR EARLY NOVEMBER AS A DATE FOR THE PLENIPOTENTIARY MEETING. WHEN I POINTED OUT THAT MEXICO'S MEMBERSHIP IN IATTC WOULD HAVE VIRTUALLY LAPSED BY THAT TIME AND 1979 SEASON WOULD BE VIRTUALLY UPON US, HE SUGGESTED PERHAPS CONFIDENTIAL

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EARLY OCTOBER AS AN ALTERNATIVE. IN ANY EVENT, HE WOULD NOT BE AVAILABLE HIMSELF DURING THOSE WEEKS IN AUGUST/SEPTEMBER WHEN LAW OF THE SEA CONFERENCE WAS IN SESSION. (WHILE MY PERSONAL PERSPECTIVE MAY BE SOMEWHAT DISTORTED, I FIND IT EXASPERATING THAT A NEGOTIATION WITH SUCH POTENTIAL IMPLICATIONS FOR OUR BILATERAL RELATIONSHIP SHOULD BE AT MERCY OF SCHEDULE OF MEXICAN LOS NEGOTIATOR. WHAT IF FOR SOME REASON SUMMER LOS SESSION IS PROLONGED A MONTH OR TWO?)

9. MY RESPONSE TO CASTANEDA WAS THAT AT THIS STAGE IT SEEMED THAT BEST THING TO DO MIGHT BE FOR BOTH OF US TO CONSULT WITH COSTA RICANS. WE OBVIOUSLY FELT THAT A JUNE MEETING WITHOUT MEXICANS WOULD DEPRIVE IT OF SOME SIGNIFICANCE. ON THE OTHER HAND, IF COSTA RICANS WANTED TO PROCEED, WE WOULD CERTAINLY HAVE TO ATTEND. IN ANY EVENT, THERE WAS ELEMENT OF URGENCY IN GETTING OUR RESPECTIVE ACTS TOGETHER AND WE URGED PARTICULARLY THAT MEXICANS AND COSTA RICANS CONSULT AS SOON AS POSSIBLE.

10. ACTION REQUESTED: IN REFLECTING ON CURRENT SITUATION, IT HAS OCCURRED TO US THAT THERE ARE SEVERAL USEFUL INTERVENTIONS WHICH EMBASSY MEXICO MIGHT MAKE, ALTHOUGH GIVEN THE FACT THAT AMBASSADOR CASTANEDA AND UNDERSECRETARY ROSENSWEIG HAVE BEEN INVOLVED IN FORMULATION OF ATTITUDE ADOPTED THUS FAR, ANY ADDITIONAL REPRESENTATIONS WOULD HAVE TO BE AT A VERY HIGH LEVEL. AS A FIRST STEP IT MIGHT BE USEFUL TO KNOW FIRST-HAND WHERE FISHERIES MINISTER RAFFUL STANDS ON ALL OF THIS. HIS SUBORDINATE DIAZ-ROJO HAS OBVIOUSLY BEEN SYMPATHETIC TO OUR PREFERRED APPROACH; BUT WE HAVE NEVER BEEN CERTAIN THAT RAFFUL SEES THINGS THE SAME WAY. IN ANY EVENT, RAFFUL MUST HAVE A BETTER FEEL FOR THE PRACTICALITIES OF OUR BILATERAL FISHERIES RELATIONSHIP THAN CASTANEDA. HE MIGHT ALSO BE IN BEST POSITION TO

ADVISE US AS TO WHETHER THERE IS ANY CHANCE OF GETTING
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GOM TO ACCEPT OUR SCENARIO AND HOW BEST TO GO ABOUT IT.
NEXT, SUBJECT TO YOUR OWN JUDGMENT OF THE SITUATION,

DEMARCHÉ TO ROEL MIGHT HAVE SOME MERIT. OR IF AN OUNCE
OF PREVENTION IS REALLY WORTH A POUND OF CURE, MIGHT
NOT A BRIEF TALK WITH THE PRESIDENT BE IN ORDER?

11. IN TALKING WITH RAFFUL AND ROEL YOU COULD DRAW ON
THE FOREGOING POINTS BUT AT RISK OF BEING REPETITIVE HERE
ARE THE MAIN POINTS I WOULD MAKE:

A. SYSTEMATIC MULTILATERAL NEGOTIATIONS ARE REQUIRED
BETWEEN NOW AND THIS FALL IF A BREAKDOWN IN FISHERIES
RELATIONS IS TO BE AVERTED;

B. COSTA RICA, WITH OUR SUPPORT, HAS PROPOSED A
SCENARIO WHICH WE BELIEVE PRACTICAL AND REALISTIC;

C. FOR MEXICO TO GO ALONG WITH OUR SCENARIO, THAT IS
AN INFORMAL JUNE 28-30 MEETING IN SAN JOSE AND A SPECIAL
IATTC MEETING IN AUGUST, WOULD BE WITHOUT PREJUDICE TO
THEIR LONGER TERM POSITION THAT THERE MUST BE EVENTUAL
OVERHAUL OF ENTIRE IATTC;

D. MEANWHILE, WITHIN FRAMEWORK OF THIS SCENARIO, U.S.
PREPARED TO WORK TOWARDS RESOLUTION OF BOTH LICENSING
AND ALLOCATION QUESTIONS AND, IF, AFTER EARLY AUGUST
IATTC MEETING, MEXICO STILL DISSATISFIED WITH PROGRESS
MADE, THEN OF COURSE WE MUST LOOK AT OTHER ALTERNATIVES;

E. IF MEXICO IRREVOCABLY COMMITTED TO ANOTHER COURSE,
THEN WE MUST URGE THEM TO PROPOSE AN ALTERNATIVE
SCENARIO, PREFERABLY TAILORED TO THE DEMANDS OF THE
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SITUATION RATHER THAN TO THE SCHEDULE OF THE LOS CON-
FERENCE.

12. I AM LEAVING FOR SAN DIEGO TODAY TO CONFER WITH OUR
TUNA INDUSTRY FOR TWO DAYS. IF YOU THOUGHT IT WOULD BE
HELPFUL AND APPOINTMENTS WITH RAFFUL AND ROEL COULD BE
ARRANGED ON THOSE DATES, I WOULD BE HAPPY TO COME TO
MEXICO CITY FROM SAN DIEGO ON THURSDAY AND STAYING OVER
ON FRIDAY IF NECESSARY. IDEALLY, MEETING SHOULD BE WITH
RAFFUL AND ROEL TOGETHER. JUST LET ME KNOW. WHILE IN
SAN DIEGO I CAN BE REACHED DURING WORKING HOURS AT THE
SCRIPPS INSTITUTION OF OCEANOGRAPHY (714) 453-2820 OR

AFTER HOURS AT SUMMER HOUSE, LA JOLLA, TELEPHONE (714)
459-0261. VANCE

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